



Proposed Regulation Agency Background Document

Agency name	The Library of Virginia (The Library Board)
Virginia Administrative Code (VAC) citation	17 VAC 15-120 -10 et seq
Regulation title	Regulations Governing the Destruction of Public Records Containing Social Security Numbers
Action title	Adopt Regulations Governing the Destruction of Public Records Containing Social Security Numbers
Document preparation date	August 13, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The purpose of the proposed action is to protect individuals from identity theft by eliminating unauthorized access to social security numbers in public records whose retention periods have expired. The regulation addresses best methods for destruction of public records containing social security numbers so that the social security numbers in these records cannot be used for identity theft.

Any public records, regardless of media, that contain social security numbers are to be destroyed at the end of their retention period in a manner that protects the confidentiality of the information. These records are to be destroyed, made electronically inaccessible, or erased so as to make social security numbers unreadable by any means.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The statutory authority to promulgate this regulation can be found in section 42.1-82 of the Code of Virginia (1950) as amended. The Code grants the Library Board the authority to issue regulations establishing procedures for the disposal, physical destruction or disposition of public records containing social security numbers. These regulations shall include all reasonable steps to destroy documents by (i) shredding, (ii) erasing, (iii) pulping, (iv) disintegration, (v) incineration or (vi) otherwise modifying social security numbers in those records to make them unreadable or undecipherable by any means.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

To fulfill its statutory mandate, the Board seeks to adopt a regulation governing the destruction of public records containing social security numbers. The proposed regulation is essential to the health, safety, and welfare of Virginia's citizens since the regulation outlines steps to be by the custodians of public records for the destruction of public records containing social security numbers. The proposed regulation will protect individuals from identity theft by eliminating unauthorized access to social security numbers in public records whose retention periods have expired. The regulation addresses best methods for destruction of public records containing social security numbers so that the social security numbers in these records cannot be used for identity theft.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The proposed regulation outlines steps that custodians of public records containing social security numbers must follow when destroying those records whose retention periods have expired whether these records are in analog or digital format. Adoption of the regulation will ensure that public records containing social security numbers will be destroyed.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantage to citizens of the Commonwealth will be that the regulation offers protection from identity theft by establishing the best methods for the destruction of public records containing social security numbers when the retention periods for those records have expired.

There are no advantages associated with this proposed regulation to the Library of Virginia.

There are no known disadvantages associated with this regulation for the public, Commonwealth or the promulgating agency.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	This regulation will have a negligible fiscal impact on the Library of Virginia.
Projected cost of the regulation on localities	It is difficult to estimate the projected cost to localities and agencies. Many already have shredders and the appropriate commercial software. The cost of this regulation to localities will depend on whether cross-cut shredders and commercial software for electronic destruction of records are already owned by localities or must be purchased and whether the decision is to use an offsite shredder.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Records managers in state and local agencies,
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	All localities and state agencies in the Commonwealth Impact on small businesses limited to those providing shredding services or selling applicable software
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	Unknown

The economic impact of this action is limited since agencies are already required to destroy records whose retention periods have expired. This regulation provides best methods to do so for public records containing social security numbers.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Not applicable, as there is no alternative to the action.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
n/a	Make sure regulation emphasizes that it is for records whose retention periods have expired	Language to that affect was added to the proposed regulations

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The agency is unaware of any impact on the family other than to provide greater protection from identity theft.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

This regulation is required by statute. It addresses best methods for destruction of public records containing social security numbers so that the social security numbers in these records cannot be used for identity theft.